

HOUSE BILL NO. 156

INTRODUCED BY J. POMNICHOWSKI

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING UNIFORM PENALTIES FOR VIOLATIONS OF ZONING LAWS, ORDINANCES, OR REGULATIONS; ALLOWING A 10-DAY PERIOD TO BRING A VIOLATION INTO COMPLIANCE; PROVIDING THAT A VIOLATION OF A ZONING LAW, ORDINANCE, OR REGULATION IS AN ABSOLUTE LIABILITY OFFENSE; ALLOWING A GOVERNING BODY TO PROVIDE CIVIL PENALTIES; PROVIDING THAT EACH DAY OF VIOLATION CONSTITUTES A SEPARATE VIOLATION; AMENDING SECTIONS 76-2-113, 76-2-210, 76-2-211, 76-2-308, AND 76-2-315, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Violations and penalties.** (1) A violation of this part or of a resolution adopted pursuant to this part is a misdemeanor and is punishable by a fine of up to \$500 or by imprisonment in the county jail for a term not exceeding 6 months, or both. The violation is an absolute liability offense as provided for in 45-2-104.

(2) The governing body may also provide civil penalties not to exceed \$100 for a violation of this part or of a resolution adopted pursuant to this part. Each day of violation constitutes a separate violation.

SECTION 2. SECTION 76-2-113, MCA, IS AMENDED TO READ:

"76-2-113. Enforcement of zoning provisions. (1) If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if any building, structure, or land is used in violation of this part or of any resolution adopted under this part, the county, in addition to other remedies, may take any appropriate action or begin proceedings to:

(1)(a) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;

(2)(b) restrain, correct, or abate a violation;

(3)(c) prevent the occupancy of a building, structure, or land; or

(4)(d) prevent any illegal act, conduct, business, or use in or near the premises.

(2) The county shall attempt to obtain voluntary compliance at least 10 working days before filing a complaint for a violation of this part that is subject to the penalties under [section 1]."

SECTION 3. SECTION 76-2-210, MCA, IS AMENDED TO READ:

"76-2-210. Enforcement of zoning provisions. (1) ~~In case~~ If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used in violation of this part or of any resolution ~~made under authority conferred hereby~~ adopted under this part, the ~~proper authorities~~ of the county, in addition to other remedies, may institute any appropriate action or proceedings to:

(a) prevent such the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; ~~to~~

(b) restrain, correct, or abate such a violation; ~~to~~

(c) prevent the occupancy of such the building, structure, or land; or ~~to~~

(d) prevent any illegal act, conduct, business, or use in or about such near the premises.

(2) The county shall attempt to obtain voluntary compliance at least 10 working days before filing a complaint for a violation of this part that is subject to the penalties under 76-2-211.

~~(2)(3)~~ (3) The board of county commissioners may appoint enforcing officers to supervise and enforce the provisions of the zoning resolutions."

Section 4. Section 76-2-211, MCA, is amended to read:

"76-2-211. Violations and penalties. (1) A violation of this part or ~~any of a~~ any of a resolution adopted pursuant ~~thereto to this part~~ is a misdemeanor and ~~shall be~~ is punishable by a fine ~~not exceeding of up to~~ not exceeding of up to \$500 or by imprisonment in the county jail for a term not exceeding 6 months, or both. The violation is an absolute liability offense as provided for in 45-2-104.

(2) The governing body may also provide civil penalties not to exceed \$100 for a violation of this part or of a resolution adopted pursuant to this part. Each day of violation constitutes a separate violation."

SECTION 5. SECTION 76-2-308, MCA, IS AMENDED TO READ:

"76-2-308. Enforcement of zoning regulations and ordinances. (1) The city or town council or other legislative body may provide by ordinance for the enforcement of this part and of any regulation or ordinance

~~made thereunder~~ adopted under this part.

(2) ~~In case any~~ If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used in violation of this part or of any ordinance or other regulation ~~made under authority conferred hereby~~ adopted under this part, the ~~proper local authorities~~ of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to:

(a) prevent ~~such the~~ unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; ~~to~~

(b) restrain, correct, or abate ~~such a~~ violation; ~~to~~

(c) prevent the occupancy of ~~such the~~ building, structure, or land; or ~~to~~

(d) prevent any illegal act, conduct, business, or use in or ~~about such~~ near the premises.

(3) The municipality shall attempt to obtain voluntary compliance at least 10 working days before filing a complaint for a violation of this part that is subject to the penalties under 76-2-315."

Section 6. Section 76-2-315, MCA, is amended to read:

"76-2-315. Violations and penalties. (1) A violation of this part or of ~~such an~~ ordinance or regulation ~~made adopted~~ pursuant to 76-2-308(1) is a misdemeanor, and ~~such the~~ city or town council or other legislative body may provide for the punishment ~~thereof of the violation~~ by a fine of up to \$500 or by imprisonment in the county jail for a term not exceeding 6 months, or both. The violation is an absolute liability offense as provided for in 45-2-104.

(2) ~~It is also empowered to provide civil penalties for such violation~~ The city or town council or other legislative body may also provide civil penalties not to exceed \$100 for a violation of this part or of an ordinance or regulation adopted pursuant to 76-2-308(1). Each day of violation constitutes a separate violation."

NEW SECTION. **Section 7. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 76, chapter 2, part 1, and the provisions of Title 76, chapter 2, part 1, apply to [section 1].

NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval.

- END -